

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

DEBORAH ANNE MILLER,

Plaintiff,

v.

Civil Action No. _____

**HATFIELD PORTFOLIO GROUP LLC;
HARBINGER PROCESSING GROUP
LLC;
ASHLEY STEWART; and
DOE 1-5**

Defendants.

COMPLAINT
(Jury Trial Demanded)

1. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. ("FDCPA").

JURISDICTION AND VENUE

2. This Court exercises jurisdiction under 15 U.S.C. 1692k and 28 U.S.C. 1331. This District is of proper venue as Defendants are residents within this District and Defendants engaged in the activities alleged herein while so residing.

PARTIES

3. Plaintiff, Deborah Anne Miller (hereinafter “Plaintiff” or “Ms. Miller”), is a natural person residing in Upland, CA. Defendant, HATFIELD PORTFOLIO GROUP LLC, is a limited liability company believed to maintain its principle place of business at 2390 North Forest Road in Getzville, NY. Defendant, HARBINGER PROCESSING GROUP LLC, is a limited liability company believed to maintain its principle place of business at 2390 North Forest Road in Getzville, NY. Defendant ASHLEY STEWART is an agent or employee of HARBINGER PROCESSING GROUP LLC.

4. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOE 1-5, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities once ascertained. Plaintiff believes and thereon alleges that the fictitiously named defendants are responsible in some manner for the occurrences herein alleged, and that such defendants are responsible to Plaintiff for damages and/or monies owed.

5. HARBINGER PROCESSING GROUP LLC, ASHLEY STEWART, and DOE 1-5 shall hereafter be jointly referred to as “Defendants.”

6. Defendants regularly operate as third-party debt collectors and are “debt collectors” as defined by 15 U.S.C. 1692a.

FACTUAL ALLEGATIONS

7. On or about November 26, 2013 Defendants began calling Ms. Miller in an attempt to collect a consumer debt she allegedly owed.

8. On December 2, 2013, Defendants left a voicemail message for Ms. Miller, the content of which is as follows:

“Yes, hello good morning. This is Ashley Stewart calling with the offices of Harbinger Processing. Uh, I have the documentation here in my office that was flagged under the name and Social Security number for Deborah Miller. Ms. Miller, I had the opportunity to speak with you last week in regards to the documentation filed here with my office and out of courtesy I did want to at least extend out another call to you um before anything was finalized on your behalf. Um, I had explained the importance of returning the call within 24 hours of receiving this letter. That letter that you requested has been sent and now uh we are to the point where a final decision will be made. You can reach me at 716-362-0335. That is my direct line and I will be here in the office until 1 p.m. pacific/ standard time.”

9. On December 18, 2013, Defendants left a voicemail message for Ms. Miller, the content of which is as follows:

“We are contacting Deborah Miller regarding a pre-legal matter ready to be out sourced to your local jurisdiction for suit. We have found through our investigation that you have never been pursued legally for any matters relative. If you would like an opportunity to resolve this matter prior to any legal proceedings, please contact one of our mediators upon receipt of this message to discuss alternative arrangements. Settling this matter out of court will allow you a significant savings against your balance. If you are unable to make arrangement with our mediators you will have an opportunity to allow them to submit a final statement on your behalf. Please dial 0 to be connected directly or contact us at 888-284-7631.”

10. On January 22, 2014, Defendants left a voicemail message for Ms. Miller, the content of which is as follows:

“This is an urgent message intended solely for Deborah Miller. My name is Susan Hayward from Harbinger Processing Group. I have been put in place to address a time sensitive claim directly affecting both your name and social security number specifically. I did want to be fair in providing you with proper notification so that you have the opportunity to address this matter on a voluntary basis. Please return this call to 866-761-3023 and refer to the file number 339717. For immediate assistance please dial 0 and you will be transferred to the next available representative.”

11. Concerned with Defendants' calls, Ms. Miller retained counsel with Centennial Law Offices.

12. On February 14, 2014, staff from Centennial Law Offices contacted Defendants by telephone, informed them that Ms. Miller was represented by counsel, and provided counsel's contact information.

13. On February 17, 2014, Defendant Ashley Stewart called Ms. Miller's phone number and spoke with her sister. Ms. Stewart advised Ms. Miller's sister that she had in fact spoken with staff from Centennial Law Offices and that it was "imperative" that Ms. Miller return her call to "resolve the matter."

14. At no point did Ms. Miller authorize Defendants to discuss the alleged debt with any third-party, including her sister.

15. As a direct result of the collection activity herein alleged, Ms. Miller incurred legal fees of \$2,155.00.

CAUSES OF ACTION

COUNT I

16. Plaintiff re-alleges paragraphs 1 through 15, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants, and each of them, violated 15 U.S.C. 1692d(6), and 1692e(11) by failing to disclose to Plaintiff that they were debt collectors calling from a collection company in an attempt to collect a debt, and that any information obtained would be used for that purpose.

COUNT II

17. Plaintiff re-alleges paragraphs 1 through 15, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants violated 15 U.S.C. 1692d as follows: Defendants' continued calls to Plaintiff after having actual knowledge that Plaintiff was represented by counsel, constitutes conduct the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with the collection of a debt.

COUNT III

18. Plaintiff re-alleges paragraphs 1 through 15, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants violated 15 U.S.C. 1692c(a)(2) with regards to Plaintiff by continuing to make collection calls to Plaintiff after having actual knowledge that Plaintiff was represented by counsel and having the means to contact Plaintiff's counsel.

COUNT IV

19. Plaintiff re-alleges paragraphs 1 through 15, inclusive, and by this reference incorporate the same as though fully set forth herein. Plaintiff is informed and believes and herein alleges that Defendants violated 15 U.S.C. 1692c(b) with regards to Plaintiff by communicating in connection with the collection of a debt with persons other than Plaintiff without Plaintiff's consent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, recovery for each cause of action in the alternative, as follows:

- 1.) For statutory damages in the amount of \$1,000 pursuant to 15 U.S.C. 1692k(2);
- 2.) For \$2,255.00 in legal fees incurred in responding to unlawful collection activity;
- 3.) For prejudgment interest in an amount to be proved at time of trial;
- 4.) For attorney's fees pursuant to 15 U.S.C. 1692(k);
- 5.) For the costs of this lawsuit; and
- 6.) For any other and further relief that the court considers proper.

JURY DEMAND

Plaintiff demands a jury trial.

Date: December 18, 2014

s/Robert Amador

ROBERT AMADOR, ESQ.
Attorney for Plaintiff DEBORAH MILLER
Centennial Law Offices
9452 Telephone Rd. 156
Ventura, CA. 93004
(888)308-1119 ext. 11
(888)535-8267 fax
R.Amador@centenniallawoffices.com